IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10386 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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BUDHIYABHAI CHATURBHAI VASAVA

Versus

DISTRICT MAGISTRATE

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Appearance:

MS DR KACHHAVAH for Petitioner

Mr.D.N.Patel, Ld.AGP for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 18/02/2000

ORAL JUDGEMENT

The detenu has been detained by the District Magistrate, Bharuch, respondent no.1 herein by an order at Annexure A dated 27.4.1999 passed under the provisions contained in the Gujarat Prevention of Anti-social Activities Act, 1985. ("PASA" for short)

2. The District Magistrate was satisfied about the illegal activities of the detenu. 5 cases are pending against the detenu. The detenu was found in dealing with illicit liquor. There are statements of witnesses and the fact that there are cases pending against the detenu. The District Magistrate was satisfied that the detenu is a boot legger and that the detenu is in habit of beating innocent persons. He is a dangerous person and he is in habit of keeping dangerous weapons with him. Even if the rickshaw driver would not allow him to sit in the rickshaw on the ground that he was carrying illicit liquor, he would go to the extent of beating the rickshaw driver. Suffice it to say that the Detaining Authority was satisfied that the detenu is required to be detained. This Court is not required to examine the legality of the grounds of detention as the grievance made before this Court is that the representation made by the petitioner has not been disposed of. There are other grounds taken in the petition also but in the instant case, neither the State of Gujarat nor the Detaining Authority has filed any affidavit. In Para 14 of the memo of application, the detenu has averred specifically as under:-

> "14. The petitioner further submits that, the representation is sent through the Advocate to the detaining authority against the impugned order of detention dated 20.10.199. It is also requested to forward it to the State Government to consider it. But still it is not replied and delayed for considering the same. Therefore, his valuable right u/Art. 22(5) of the Constitution of India is violated and his continued detention has become illegal."

In absence of reply by the State that the representation was considered in accordance with law or not, it becomes very difficult for the Court to reject the contention raised by the petitioner in his petition. The detenu is detained in the jail without trial and therefore it was necessary that the representation made by the detenu is decided in accordance with law. As there is nothing on record that the representation has been disposed of and hence the continued detention is required to be held bad and illegal. Thus, the detenu is ordered to be released forthwith, if not required in any other case. Rule made absolute with no orders as to costs.

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